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ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

29 April 1969

INTERNATIONAL SECURITY AFFAIRS

MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: Joint Talking Paper for SecDef and Chairman, JCS, for NSC Meeting, 30 April (NSSM 41 - Seabed Arms Control)

Attached Talking Paper and backup material is forwarded for your use at the NSC meeting on Wednesday, 30 April. The JCS views on this subject at TAB D provide a good background on the principal issues. These views are fully supported by ISA.

The recommended DOD view on inspection represents a reversal in the long-held view that an inspection provision should be included in any arms control agreement. This reversal arises from the impracticability of conducting any meaningful inspection in this hostile environment beyond that possible under existing rights. You should anticipate strenuous opposition on this issue from the Director, ACDA, who desires an inspection article because the Soviets included a reciprocal inspection provision in their draft treaty on seabed arms control.

You will probably gain support for the DOD position that U.S. should begin negotiations on the basis of a three-mile width for the band of exemption if you indicate a willingness to reconsider this matter once the territorial sea problem has been resolved. U.S. is separately negotiating for a 12-mile territorial sea with transit rights through straits. Successful outcome is very important to DOD.

No coordination is required on this issue at this time.

*R. A. Ware*

R. A. Ware  
Principal Deputy  
Assistant Secretary

SECRETARY OF DEFENSE  
OFFICE OF THE SECRETARY

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Talking Paper for Secretary of Defense and Chairman, Joint  
Chiefs of Staff (NSC Meeting of 30 April 1969)

SUBJECT: National Security Study Memorandum 41 - Treaty for  
Nuclear Arms Control of the Seabeds (U)

ISSUE: At Presidential direction, TAB B, a study has been  
prepared on the issue of a treaty prohibiting the emplacement  
or fixing of nuclear weapons or other weapons of mass destruction on  
the seabed.

BACKGROUND/DISCUSSION: The study at TAB A has been submitted  
by the NSC Staff after review by the NSC Review Group. It  
consists of a basic paper, a draft treaty, and a list of  
examples of weapons systems and activities which would be  
prohibited or non-prohibited under the alternative formulations  
of Article I of the treaty. The views of the OSD and JCS were  
considered in the preparation of this study. The following  
have been examined in the study:

a. THE PROS AND CONS OF WHETHER OR NOT SUCH A TREATY IS IN  
THE OVERALL INTERESTS OF THE US.

OSD-JCS VIEWS

No. Treaty is not in overall security interests of US  
at this time because:

(1) Current lack of understanding of scientific and  
technological aspects of future ocean activities, and their  
relation to legal considerations, make it impossible to envision  
now all of the ramifications which an arms control agreement could  
impose upon the security interests of the US.

(2) Although it is premature to decide whether the US  
should emplace weapons on the seabeds in order to maintain the  
necessary strategic nuclear capability in the future, such a  
requirement is a possibility. The primary consideration is not  
the question of current programs, but the risk to possible future  
US strategic nuclear programs.

(3) National verification capabilities are inadequate  
to insure compliance with such an agreement.

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b. THE PROS AND CONS OF ALTERNATIVE FORMULATIONS OF THE  
SPECIFIC PROVISIONS OF SUCH A TREATY.

OSD-JCS VIEWS

(1) If the decision is made to table a draft, TAB C sets forth the recommended choices among the various alternatives which would be the least detrimental to security of US. The DOD preferred formulations are set forth as Alternative 2 in each of the operative paragraphs of the draft treaty (TAB A of the study). These alternatives would set forth an initial US proposal which would prohibit the emplacement or emplanting of fixed weapons of mass destruction on the seabed, from a three-mile band adjacent to the coast of any state, (DOD should indicate a willingness to consider some other band width once the territorial sea question is resolved), without an article on inspection.

(2) A principal consideration represented by these choices is the DOD view that the US Government's opening position on these issues should be restrained and conservative instead of attempting to accommodate to views previously expressed by the Soviet Union. During negotiations, these restricted formulations can be broadened by interpretive statements as required to accommodate to points of view expressed by other states.

c. THE PROSPECTS FOR OBTAINING AGREEMENT ON THE VARIOUS  
FORMULATIONS OF THE TREATY.

OSD-JCS VIEWS

This is considered to be a State Department judgment. If a decision is made to table a draft treaty, then this section is a logical analysis.

d. THE FACTORS AFFECTING THE TIMING OF OUR PROPOSING A SPECIFIC  
TREATY DRAFT.

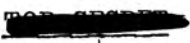
OSD-JCS VIEWS

If a decision is made to table a draft treaty, the OSD and JCS agree with the discussion in this section.

RECOMMENDATION

That the Secretary of Defense and the Chairman, Joint Chiefs of Staff, support the foregoing views at the NSC meeting.

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Approved by

S. Warren Meeter

Approved by

Nehemiah



THE JOINT CHIEFS OF STAFF  
WASHINGTON, D. C. 20301

JCSM-242-69  
22 April 1969

MEMORANDUM FOR THE SECRETARY OF DEFENSE

Subject: Treaty for Nuclear Arms Control of  
the Seabeds (U)

1. (C) The study directed under NSSM 41 on the issue of a treaty prohibiting the emplacement or fixing of nuclear weapons or other weapons of mass destruction on the seabed has been forwarded by the NSSM 41 Steering Committee to the National Security Council Review Group for its consideration on 25 April 1969 and for National Security Council discussion on 30 April 1969. It is considered appropriate to provide the views of the Joint Chiefs of Staff on this subject.

2. (TS) The Joint Chiefs of Staff have reexamined the issue of a seabed arms control treaty and have again concluded that the question of an arms control regime to be applied to the seabeds is complex and requires full awareness of the technological and scientific features of this environment. Due to the current lack of understanding of many of the scientific and technical aspects of future ocean activities and their relationship to legal considerations, it is impossible to envision now all the ramifications which an arms control regime could impose upon the security interests of the United States. While it is premature to decide whether the United States should emplace weapons on the seabeds in order to maintain the necessary strategic nuclear capability in the future, such a requirement is a possibility. It is not a question of current programs but the risks to possible future US strategic nuclear programs that must be the primary consideration. Further, national verification capabilities as set forth in Special National Intelligence Estimate (SNIE) 11-12-68, subject: "Emplacement of Weapons of Mass Destruction on the Seabed," are considered inadequate to insure compliance with a seabed arms control agreement. Finally, the fact that the Soviets have a land deployment advantage vis-a-vis the United States and a relatively limited access to the deep oceans makes a seabed arms control agreement clearly advantageous to the USSR. For these reasons, the Joint Chiefs of Staff believe that such a treaty is not now in the overall security interest of the United States and, in fact, would bear a potential for grave harm.

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3. (S) The Joint Chiefs of Staff are aware that National Security Council (NSC) consideration of the problem might result in a Presidential decision to table a draft treaty in order to counter the Soviet tactical advantage gained by their tabling of a draft treaty in the Eighteen-Nation Disarmament Committee (ENDC). In recognition of this possibility and considering the many uncertainties of a treaty for this environment, the Joint Chiefs of Staff believe that the following formulations would probably be least detrimental to the security of the United States:

ARTICLE I

Each state party to this treaty undertakes not to implant or emplace fixed nuclear weapons or other weapons of mass destruction and their associated fixed launching platforms on, within, or beneath the seabed and ocean floor beyond a narrow band as defined in Article II of this treaty adjacent to the coast of any state.

ARTICLE II

For purposes of this treaty, the outer limit of the narrow band referred to in Article I shall be measured from NORMAL\* base lines drawn in the manner specified in the Convention on the Territorial Sea and Contiguous Zone for drawing SUCH\* base lines from which the outer limit of the territorial sea is measured. The width of the narrow band shall be three miles.

ARTICLE III

There should be no inspection article.

4. (S) Regarding the zone of application, the Joint Chiefs of Staff believe that in the event a decision is made to support a boundary formulation other than that outlined in Article II of paragraph 3, above, such an article should not be tabled at the current session of the ENDC. To do so could complicate and prejudice other ongoing law of the sea discussions.

5. (U) The rationale for the above views is contained in the Appendix hereto.

\* The capitalized words were not included in either alternative.

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6. (U) The Joint Chiefs of Staff request the opportunity to comment on the instructions to the ENDC delegation.

For the Joint Chiefs of Staff:

*K. L. Reaves*

K. L. REAVES

Major General, USA  
Vice Director, Joint Staff

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APPENDIX	<u>1</u>
RATIONALE IN SUPPORT OF JCS VIEWS	<u>2</u>
1. ARTICLE I	<u>3</u>
a. <u>Prohibition of fixed weapons and fixed launching</u>	<u>4</u>
<u>platforms. Holding open the option to deploy mobile sub-</u>	<u>5</u>
mersible systems would permit the United States to take	<u>6</u>
advantage of its technological lead and offset the Soviet	<u>7</u>
land deployment advantage. If a decision is made for an	<u>8</u>
inspection article (Article III), restricting the treaty to	<u>9</u>
fixed weapons would remove a significant uncertainty with	<u>10</u>
respect to verification. Moreover, in view of the lack of	<u>11</u>
knowledge of the seabeds, a cautious evolutionary approach	<u>12</u>
is appropriate.	<u>13</u>
b. <u>Zone of Application.</u> The band-to-band formulation	<u>14</u>
would preserve the option of emplacing weapons within the band	<u>15</u>
of other nations should it be in our mutual interest. It	<u>16</u>
would also avoid the problem of special procedures for	<u>17</u>
inspection of suspected violations by states occurring in	<u>18</u>
the territorial seas of other states.	<u>19</u>
2. ARTICLE II	<u>20</u>
a. <u>Method of measuring the base line.</u> With regard to	<u>21</u>
determination of the base line from which the width of the	<u>22</u>
zone of application is measured, the Joint Chiefs of Staff	<u>23</u>
believe the method of using the sinuosities of the coast	<u>24</u>
(normal base line) is the most advantageous to the United	<u>25</u>
States. In any event, any treaty formulation must not	<u>26</u>
permit the USSR, or other adversaries, to gain an advantage	<u>27</u>
in a seabed area by permitting the deployment of weapons or	<u>28</u>
installations in specific waters claimed by them. For	<u>29</u>
example, the USSR interpretation of the Convention on the	<u>30</u>
Territorial Sea and Contiguous Zone and other principles of	<u>31</u>
international law would permit them to use wide seabed areas	<u>32</u>
such as the Sea of Okhotsk.	<u>33</u>



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b. Width of Band. The 3-mile limit is consistent 1  
with the present US public position on the width of the 2  
territorial seas. Use of this figure at this time will 3  
not have an adverse affect on other law of the sea negoti- 4  
ations. It is recognized that the 3-mile limit will be 5  
extremely difficult to negotiate, but it will test the Soviet 6  
resolve to have a treaty. In any event, the Joint Chiefs of 7  
Staff believe it is premature to discuss the 12-mile limit in 8  
connection with arms control negotiations before settling the 9  
question of transit rights and territorial seas. To do so 10  
would extend implicit recognition to the validity of the 12- 11  
mile territorial sea without achieving a concomitant right of 12  
navigation through and over straits. When negotiations on 13  
the territorial seas have been concluded to the satisfaction 14  
of the United States, and as the Eighteen-Nation Disarmament 15  
Committee discussions on the seabed proceed, the Joint Chiefs 16  
of Staff would wish to reevaluate the most favorable outer 17  
boundary for an arms control agreement on the seabed from 18  
a national defense point of view. 19

3. ARTICLE III (INSPECTION) 20

The major problems in verifying compliance with this 21  
treaty would be to detect and locate suspected devices and 22  
installations in order to permit inspection. The right to 23  
inspect does not help in this regard. Present international 24  
law permits some inspection, such as X-raying, measuring 25  
emanations, and photographing. However, it does not permit 26  
dismantling or physical interference. Accordingly, a 27  
logical interpretation of the inspection Article is that 28  
it adds the right to dismantle suspected devices or instal- 29  
lations. The United States now has more military and com- 30  
mercial installations on the seabed than any other nation. 31

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At the present time, it is believed that the Soviets have little 1  
or nothing for the United States to "inspect." If and when they 2  
do, and these devices are detected and identified, but not 3  
"inspected," the US Government would be able to withdraw from 4  
the treaty without compromising its source of intelligence. 5  
In view of our limited national capability to locate devices, 6  
the right of such inspection, as a practical matter, would not 7  
materially enhance our verification capabilities. Not having 8  
"inspection" rights in a treaty would better permit the United 9  
States to avoid the possibility of being pressured to reveal 10  
the locations and purposes of all underwater installations and 11  
devices. As a consequence, the right of "inspection" would 12  
do more harm to US interests than could be gained by the 13  
United States "inspecting" suspected violations. 14  
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